

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ANNYE J. THOMAS,

Plaintiff,

v.

AMERICAN HERITAGE LIFE
INSURANCE COMPANY, et al.,

Defendants.

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CASE NO.: 2:06-CV-1101-WKW

MOTION FOR LEAVE TO DEPOSIT FUNDS INTO COURT

Pursuant to Rule 67 of the Federal Rules of Civil Procedure, Defendant AMERICAN HERITAGE LIFE INSURANCE COMPANY ("American Heritage") requests this Court to enter an Order allowing it to deposit into the Court the sum of \$468.00, representing the premiums paid on the involved policy of insurance at issue from the time of its inception until the time of the death of Lakecia Q. Broadnax. In support of this Motion, American Heritage states the following:

1. On or about December 18, 2006, American Heritage served and filed an Answer including an affirmative defense in this matter declaring that Lakecia Q. Broadnax's application for the subject policy contained misrepresentations, omissions, concealment of facts and/or incorrect statements that were fraudulent and/or were material either to the acceptance of the risk or to the hazard assumed by American Heritage, and/or that American Heritage in good faith would not have issued the policy in the manner that it did had correct and complete information been supplied.

2. Section 27-14-7(b) of the Alabama Code provides, "No plea of misrepresentation or fraud in connection with the issuance of a life insurance policy or annuity contract shall be filed unless accompanied by a payment into court of all premiums paid on the policy or contract."
3. American Heritage received \$468.00 in premium payments on the subject policy.
4. In order to ensure conformity with Section 27-14-7(b), American Heritage respectfully requests that it be permitted to deposit \$468.00 into Court until such time as the Court or the parties can make an appropriate determination as to the proper final disposition of said funds.

WHEREFORE, based on the foregoing, American Heritage respectfully requests this Court to enter an Order granting it leave to deposit the premiums paid on the subject policy into Court, and for the funds to remain in an interest bearing account in conformity with Rule 67 of the Federal Rules of Civil Procedure, pending a resolution of the issues in this matter.

Respectfully submitted this 9th day of January, 2007.

/s/ David W. McDowell (ASB-7713-L69d)
One of the attorneys for
American Heritage Life Insurance Company

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CERTIFICATE OF SERVICE

I, certify that on the 9 day of January, 2007, a copy of the foregoing document was electronically filed. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

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/s/ David W. McDowell (ASB-7713-L69d)